THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 14796 OF 2006

DATED: 14.09.2006

Between:

Sri Anil Kumar Agarwal, S/o O.P.Agarwal,
Court Commissioner,
R/o D.No.10-3/3/14, East Marredipali,
Secunderabad.

...

PETITIONER

And:

Director General of Police,
Andhra Pradesh, at Hyderabad and
others.

...**RESPONDENTS**

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 14796 OF 2006

ORAL ORDER:

Petitioner claims to be the Court Commissioner and a Director of M/S Vinedale Distilleries Limited (the company) with its registered office at IB, Sampathji Apartments, 6-3-855/10/A, Ameerpet, Hyderabad. There were two groups in the company, conveniently for these proceedings to be called "the Sanman Group" and the "Agarwal Group". Certain disputes that had arisen between the two groups regarding the management and control of the company resulted in several suits in several Courts.

It is represented by Sri.D.Prakash Reddy, the learned senior counsel representing the petitioner that eventually and pursuant to orders of the Supreme Court, the several suits were consolidated and directed to be heard by the Delhi High Court, and in an interlocutory application in such package of suits, the Agarwal Group, (comprising the petitioner Anil Kumar Agarwal and his brother Satish Kumar Agarwal) is stated to have been recognized to manage and control the affairs of the company and as Court Commissioner pending resolution of the main *lis* in the suits. When the petitioner wanted to exercise his co-equal right of management of the company along with his brother Satish Kumar Agarwal (the 6th respondent) pursuant to the aforementioned

interlocutory order of the Delhi High Court, there was allegedly resistance by the 6th respondent and the petitioner was prevented from participating in the management of the company. This led to another sequence of litigations.

O.S.No.662 of 2004 is stated to have been filed by the 6th respondent (the petitioner's brother), representing the company, against the petitioner and his son one Abhishek Agarwal, wherein, an interlocutory application, being I.A.No.1131 of 2004 was instituted by the plaintiff seeking an injunction against the respondents from proclaiming themselves to be directors of the plaintiff company, entering into any transaction on behalf of the plaintiff company, or in any other manner interfering with the business of the company. I.A.No.1131 of 2004 is asserted to have been dismissed by the learned I Additional Senior civil Judge, Ranga Reddy, by an order dated 21.07.2004 and the *ex parte* interim injunction earlier granted was vacated. Thereagainst, the plaintiff (the 6th respondent herein) in O.S.No.662 of 2004 filed C.M.A.No.136 of 2004 which is also stated to have been dismissed with costs by an order dated 27.04.2006 of the learned I Additional District Judge, Ranga Reddy.

Earlier, the company, the petitioner, his son Abishek Agarwal and two others filed O.S.No.287 of 2003 and in an interlocutory application, I.A.No.768 of 2003, obtained an *ex parte* injunction on 11.06.2003 restraining the defendants/ respondents 2 to 5 from "impersonating as Directors of M/s Vinedale Distilleries Limited or from interfering with the affairs of the plaintiff until further orders." On 27.03.2006, the ad interim injunction granted

on 11.06.2003 was confirmed restraining the defendants in the suit (O.S.NO.287 of 2003) from conducting themselves in the manner complained of in the interlocutory application.

The company, the petitioner and four others filed another suit, O.S.No.636 of 2003 and in an interlocutory application I.A.No.2246 of 2003 obtained an ex parte interim injunction on 25.11.2003 restraining the respondents/defendants (including the 6th respondent herein) from "interfering with the affairs of the plaintiffs or from holding parallel meeting in respect of the first plaintiff company without valid and proper notice to the plaintiffs and pending disposal of the suit." The ad interim injunction is stated to have been made absolute on 27.03.2006.

Yet another suit O.S.No.532 of 2004 was filed by the company, the petitioner and three others against the defendants impleaded therein (Satish Kumar Agarwal not included) and I.A.No.1037 of 2004 therein an interim injunction restraining the respondents from impersonating or acting as Directors of M/S Vinedale Distilleries Limited or entering into the office or factory premises was obtained. The *ex parte* injunction is stated to have been confirmed by the trial Court on 27.03.2006 after contest.

It is stated by the learned senior counsel appearing for the petitioner that as against the three interim injunction orders in O.S.Nos.287 and 636 of 2003 and 532 of 2004, the respondents therein preferred Civil Miscellaneous Appeals before the I Additional Chief Judge, City Civil Court, Hyderabad at Secunderabad, being C.M.A.Nos.31, 37 and 38 of 2006 and that the three Miscellaneous Appeals were dismissed on 11.09.2006 and therefore, the interim injunctions granted by the trial Court in

the three suits are in currency and operation, is the assertion.

Complaining that the 6th respondent is interfering with the petitioner's lawful participation in the management and control of the company and in transgression of the petitioner's co-equal right of being Court Commissioner qua the affairs of the company and in defiance of the interim injunctions granted by the trial Court in O.S.Nos.287 and 636 of 2003 and 532 of 2004 and urging that the such illegal resistance to the petitioner's lawful activity as by judicial orders declared, is being pursued by the 6th respondent through the assistance of antisocial and criminal elements, the petitioner submitted a complaint dated 04.05.2006 to respondents 1 to 4-police. Aggrieved that the police were not registering his complaint notwithstanding that it discloses the commission of a cognizable offence and that the police have abrogated their statutory responsibility of effectuating the rights of the petitioner as by judicial decrees determined, the writ petition is filed seeking appropriate relief.

The petitioner, if aggrieved by the interference by the 6th respondent with his rights of participating in the affairs and management of the company and on the ground that such interference or resistance to the petitioner's lawful activities is in defiance of the interim injunctions orders (granted by the Court of the III Additional Senior Civil Judge, City Civil Court, Secunderabad, as confirmed by the I Additional Chief Judge, City Civil Court, Hyderabad at Secunderabad in C.M.A.Nos.31,37 and 38 of 2006), the appropriate remedy for the petitioner is to petition those particular Courts whereat the interim injunctions were obtained under the appropriate provisions of the Code of Civil

Procedure, 1908 for action against the 6th respondent herein for violating the injunction orders. If the petitioner's grievance is that respondents 1 to 4 have not acted upon his complaint dated 04.05.2006 and have failed to register the case and to pursue investigation with the speed and dispatch obligated in discharge of their sovereign law and order maintenance functions, the petitioner has yet an alternative remedy of preferring a private complaint under Section 190 of the Code of Criminal Procedure, 1973 and even in this area this Court ought not to entertain the grievance in a writ petition in view of the law declared by the Supreme Court in ***Hari Singh V. State of Uttar Pradesh***[1].

In the aforesaid circumstances, the writ petition is dismissed. The petitioner is at liberty to pursue appropriate remedies either before the Civil Courts or criminal courts of competent jurisdiction in respect of any subsisting or potential grievance for transgression of any Court orders or otherwise, in accordance with law. Nothing in this order or in the interlocutory applications herein shall be construed by any Court or authority as an expression by this Court on merits of the petitioner's claims, contentions or assertions and these are set out only for the purpose of providing a foundation for the eventual order disposing of this writ petition.

The writ petition is dismissed as above. There shall be no order as to costs.

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14.09.2006

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